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FITZ-JOHN PORTER.

SPEECH

OF THE

HON. WM. WALTER PHELPS,
OF NEW JERSEY,

FEBRUARY 1, 1884.

It is my duty to speak to-day for Fitz-John Porter, because he is my constituent. It is at the same time a pleasure and an honor because he is my friend, and I believe him to be an honest man and a loyal soldier.

HOUSE OF REPRESENTATIVES.

WASHINGTON,
1884.

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S P E E C H
OF
HON. WM. WALTER. PHELPS.

The House having under consideration the bill (H. R. 1015) for the relief of Fitz-John Porter—

Mr. PHELPS said:

Mr. CHAIRMAN: Speaking for the one most interested, I express his deep regret for the unkind allusions to the living and the dead which have been made in the heat of this discussion. In his long search for justice he has carefully avoided any reflection upon those who have impeded him in the pursuit, and he refuses to accept any responsibility for these allusions, whether made by those who are friendly or those who are unfriendly to the bill. And may I not assume that if those who had made them had the floor they, too, would express their regret: the gentleman from New York [Mr. SLOCUM] who has charge of the bill, that he reflected upon the great war minister, whose great faults history will pardon for his greater achievements; the gentleman from Indiana [Mr. STEELE], that, in his surprise at finding that a general on the board of examination viewed the evidence different from him, he intimated that he looked at the evidence with an eye upon the Presidency; the gentleman from Michigan [Mr. CUTCHEON], that he checked the course of his strong argument to intimate that there was another general who wished to be reinstated; my colleague from New Jersey [Mr. McADOO], a young Rupert in debate, that he suggested that a conviction of the military incompetency of still another general was a universal condition of sanity; my peaceful friend from Michigan [Mr. HORR], that he confessed that he could think just as General Grant did in everything, except in military matters; and my neighbor here from Ohio [Mr. TAYLOR]—but I can not give the time to recall all the illustrious names that have been unnecessarily dragged into this debate.

Could they all be eliminated it were better; and this case could stand or fall on its own merits. It is my duty to speak to-day for Fitz-John Porter because he is my constituent. It is at the same time a pleasure and an honor because he is my friend, and I believe him to be an honest man and a loyal soldier.

“The mills of the gods grind slowly” in his case.

It was twenty years last week (Monday) since the last signature was put to the verdict of a military jury which drove him out of the Army and made him a leper which his Government should never touch with an office of trust or profit. This verdict awarded him such infamy that for a while Iscariot and Arnold were his only competitors. A blundering Department furnished to an anxious President, a baffled Army, and an indignant people this sacrifice; and fifteen millions straining unto death to save their country in an hour of supreme despondency and gloom found a momentary relief in cursing the name of Porter.

Who was this sacrifice? One whose ancestry deserved well of the Republic; one, who as a boy of gentle heart and ways learned in the National Academy to hold a stain upon his honor as a wound, and to conceive all honor as sphered in loyalty to his country; one, who as a youth stood the most chivalrous and accomplished officer in a guild whose military code gives to the testimony of a member under oath no greater force than his formal declaration; one who in manhood won wounds and glory in the field, and who on the 27th day of August, 1862, as said the gentleman from Michigan, "stood the consummate flower of the American Army and its pride." This was the gentle, chivalrous, illustrious soldier who was thus lifted up into a storm of obloquy and reproach as a traitor to his country. What can he do? His fate is worse than Arnold's or Judas's. Arnold, hating his country, fled from it and received the rewards of treason; but Porter loves his country, and has no thought except of loyal service. Judas went out and died, conscience stricken; but Porter's conscience is clear, and remorse refuses to lead him to the field of blood. He does what an honest man ought, and only an honest man can do; he takes up his burden and bears it. He will live, and live down his wrongs. He will wait, and trust to God and his country for redress. He withdrew to the quiet of a New Jersey village and established his home. There he faithfully discharged all his duties, neither seeking nor shunning observation. He was a good husband, a good father, a good neighbor, citizen, and friend. That little village for twenty years has watched, honored, and loved the man. They have seen his eye grow sad and his hair grow white with hope deferred. But he never talked of his grievance nor asked for pity. He was fulfilling a sentence which, for such a man, Edward Everett truly said, was "in some respects worse than a sentence of death." This was his home life. His life abroad was a constant struggle to regain his good name. That was his mission, and he prosecuted it without pause or rest. On every proper occasion, in every proper place he declared his innocence, offered his evidence, and asked for examination. He began when, on the 3d day of September, 1862, immediately after the battle of Manassas, he repaired to Washington and demanded a court of inquiry. Lincoln granted it on the 5th of September, and here is the order, but neither Porter nor the world knew it until sixteen years afterward:

WAR DEPARTMENT,
Washington City, D. C., September 5, 1862.

Ordered. That there be a court of inquiry to inquire and report as to—

First, Maj-Gen. Fitz-John Porter. Was he and his command in the battle of Friday, August 29, 1862, General Pope commanding United States forces; and, if not, where was he; and why was he not in said battle?

Second, Maj-Gen. William B. Franklin. Was he and his command in the battle of Saturday, August 30, 1862, General Pope commanding United States forces; and, if not, why was he not in said battle; why did he not march from Alexandria toward General Pope sooner than he did; and having marched, why did he not reach General Pope sooner than he did?

Third, Brig-Gen. Charles Griffin. Was he and his command in the battles of Thursday and Friday, August 29 and 30, 1862, General Pope commanding United States forces; and, if not, where was he; and why was he not in said battles, one or both?

ABRAHAM LINCOLN.

The court met three or four times and then "was adjourned indefinitely by order of General Halleck." Stanton gave no long rope to his courts when the people and the accused knew of them. He gave shorter rope when the people and the accused knew nothing of them. In this case he acted wisely. The War Department might hereafter need a court of a different sort. It did, and he furnished it months afterward. This

was the first act of his mission, and we trust that this is the last—where he stands an old man at the bar of Congress, again declares his innocence, presents his proofs, asks for examination, and demands justice.

What was his crime? He did not obey an order of his superior to fight. And what was his defense? That the order came at night, and when it was too late to execute it. And second—for he was no coward, and only one man on this floor has been desperate enough to impute cowardice to him—and second, had the order come in time he would not have obeyed it, for its execution was the fruitless and assured destruction of his corps. I speak of one order. You say you have heard much of several orders. True, much in this House, but nothing in the report of the minority. The charges connected with the other orders brought into this discussion were so trivial and unimportant, and the answers to them were so complete and satisfactory, that the members of the committee to whom the opposition to this bill was intrusted, the prosecutors of this case, ignored them. Not so, however, the free lances on the floor, who found in this ocean of facts about the sky above and the earth beneath and the atmosphere between so fruitful a head of eloquence that the galleries thought they heard the famous chorus of the opera, "Let us talk about the weather." [Laughter.] Neither of these two orders was to fight. They were simply to march. Though not important enough to be mentioned in the minority report, as they have been the source of so much eloquence in the House, let me refer to them to escape confusion.

[Order No. 1.]

HEADQUARTERS ARMY OF VIRGINIA,
Bristoe Station, August 27, 1862—6.30 p. m.

GENERAL: The major-general commanding directs that you start at 1 o'clock, and come forward with your whole corps, or such part as is with you, so as to be here by daylight to-morrow morning. Hooker has had a severe action with the enemy, with a loss of about three hundred killed and wounded. The enemy has been driven back, but is retiring along the railroad. We must drive him from Manassas, and clear the country between that place and Gainesville, where McDowell is. If Morell has not joined you, send word to him to push forward immediately; also send word to Banks to hurry forward with all speed to take your place at Warrenton Junction. It is necessary on all accounts that you should be here by daylight. I send an officer with this dispatch who will conduct you to this place. Be sure and send word to Banks, who is on the road to Fayetteville, probably in the direction of Bealeton. Say to Banks, also, that he had best run back the railroad trains to Cedar Run. If he is not with you, write him to that effect.

P.S.—If Banks is not at Warrenton Junction, leave a regiment of infantry and two pieces of artillery as a guard till he comes up, with instructions to follow you immediately. If Banks is not at the junction, instruct Colonel Clary to run the trains back to this side of Cedar Run and post a regiment and section of artillery with it.

The first order was that General Porter should start at 1 o'clock on the morning of August 28, 1862, and march his force nine or ten miles to Bristoe Station, that it might there join at daybreak with the main army for the purpose of clearing the country between that place and Gainesville. General Porter, upon receiving it, summoned his generals and they looked at the state of affairs. The night was dark and misty; the road, surface and ditch, was blocked with wagons and cannons and their wrecks. It was doubtful if any effort made before the first glimmer of light would accomplish anything. It was certain that no effort could get the troops to Bristoe Station at daybreak, as was desired. These troops were fatigued and would need rest. They should be fresh for the all-day task of wandering in pursuit, which the order foreshadowed. The order showed, too, that the task to which they were

summoned was not one of immediate importance. It was not a summons to a defense, or to an attack where great haste and exact punctuality was demanded. The order said that the enemy had already been driven back and was retiring. The task was to "clear the country" behind them. That task could begin as well any hour after daylight. These facts upon which that little council of war passed were not conjecture. Before the order was received Porter had sent out two aids to view the road and report. This he did in anticipation of orders, and when he and his associates decided that it was not wise to make the start at 1 o'clock, he promptly sent a messenger to Pope and informed him of the decision and its reasons. He started at 3 o'clock with the first glimmer of light that made the start practicable, and there is no evidence that loss resulted to anybody from the delay. Pope admitted in his testimony (volume 1, page 19) that it did no harm. The whole charge is so trivial that it was evidently brought as a make-weight, as something to buttress the main charge.

HEADQUARTERS ARMY OF VIRGINIA,
Centreville, August 29, 1862.

Generals McDOWELL and PORTER:

You will please move forward with your joint commands toward Gainesville. I sent General Porter written orders to that effect an hour and a half ago. Heintzelman, Sigel, and Reno are moving on the Warrenton turnpike, and must now be not far from Gainesville. I desire that as soon as communication is established between this force and your own the whole command shall halt. It may be necessary to fall back behind Bull Run at Centreville to-night. I presume it will be so on account of our supplies. I have sent no orders of any description to Ricketts, and none to interfere in any way with the movements of McDowell's troops, except what I sent by his aid-de-camp last night, which were to hold his position on the Warrenton pike until the troops from here should fall upon the enemy's flank and rear. I do not even know Ricketts's position, as I have not been able to find out where General McDowell was until a late hour this morning. General McDowell will take immediate steps to communicate with General Ricketts, and instruct him to rejoin the other divisions of his corps as soon as practicable.

If any considerable advantages are to be gained by departing from this order, it will not be strictly carried out. One thing must be had in view, that the troops must occupy a position from which they can reach Bull Run to-night or by morning. The indications are that the whole force of the enemy is moving in this direction at a pace that will bring them here by to-morrow night or next day. My own headquarters will be, for the present, with Heintzelman's corps or at this place.

JOHN POPE,
Major-General Commanding.

The second order was addressed to McDowell and Porter. It is the joint order. It directed that their forces should move toward Gainesville. And what is the defense? First, Porter might have disobeyed without censure, for it was a discretionary order. The order says, "If any considerable advantages are to be gained by departing from this order it will not be strictly carried out." The second defense is that it was carried out, for the order found Porter with McDowell, just where it ordered him to be. Says McDowell (volume 1, page 349): "I commanded Porter's corps and my own division. We there on the ground received the joint order which directed the very thing we had done." And Pope knew that this joint order had been obeyed, for in his dispatch numbered 26A (volume 1, page 329) he says so. Why, then, did gentlemen discuss this joint order which was executed, as say both McDowell and Pope? There would seem to be no reason except for the temptation to warm our blood with the battle-cries of McDowell, "Fight? That is what we are here for," and "You go in there." These are good cries either for the House or for the field, but they

were better had they been uttered by McDowell on the field as they were repeated by the gentleman from Ohio [Mr. KEIFER] in the House, in a voice that could be distinctly heard; for General Porter never heard them; Lieutenant-Colonel Locke, chief of staff, never heard them; Captain Martin, of a Massachusetts battery; Captain Earle, Lieutenant Davis, and General Patrick never heard them; but, being all six by and present, did hear General McDowell say, "This is no place to fight a battle; you are too far off." And when General McDowell was recalled to explain the dilemma, that the three gallant officers did not hear "That is what we are here for," and to "Go in here," but on the contrary, "This is no place to fight a battle," what was McDowell's explanation? I repeat his very words:

I can not recollect precisely what occurred or what conversation or what words passed between us at that time. I can not say what language I used or how it may have been understood whilst talking on that. (Pages 217 and 218.)

Why did not the gentleman from Ohio declaim what General McDowell was heard to say, and not what he wished he had said? The cry "This is no place to fight a battle" would not be so good for the House but would have been a better order in the field; for it has never seemed to me a very creditable picture, even when painted by the gentleman from Ohio, to see McDowell take eighteen thousand men (ten thousand of Ricketts's, eight thousand of King's) from Porter, leave him with only nine thousand, and march away with his great force from the field, while he pointed to Porter in the opposite direction and said, "You go in there." It always seemed to me and to the world that McDowell, if either, should have gone in there himself. [Applause.]

HEADQUARTERS IN THE FIELD,
August 29, 1862—4.30 p. m.

Major-General PORTER:

Your line of march brings you in on the enemy's right flank. I desire you to push forward into action at once on the enemy's flank, and, if possible, on his rear, keeping your right in communication with General Reynolds.

The enemy is massed in the woods in front of us, but can be shelled out as soon as you engage their flank. Keep heavy reserves and use your batteries, keeping well closed to your right all the time. In case you are obliged to fall back, do so to your right and rear, so as to keep you in close communication with the right wing.

JOHN POPE,
Major-General Commanding.

And now for the order of 4.30, an order which the minority report did discuss. Upon it stands or falls the guilt of Porter. This order required Porter to fight. It instructed him to attack the enemy on his flank and, if possible, on his rear. He did not attack the enemy on his flank or on his rear. And what is his defense? First, he received the order after 6 o'clock at night, when it was too late. But, again, Porter, notwithstanding the cowardice with which the gentleman from Ohio [Mr. KEIFER] taunted him, chooses to accept a braver defense, and admits that had the order come in time he would not have made the attack.

First, as to the time that this order was received. Before the court-martial there was no documentary evidence to fix it. There was much oral testimony, and some of it conflicted. The vast preponderance, however, seemed to establish the fact that Porter received it at sunset. Major-General Sykes says he was present when the order was delivered, and says, "It was as near sunset as I can remember." Colonel Locke, too, saw the delivery, and says it was between sundown and dusk. Captain Monteith, too, was present; he says it was sundown. The tes-

timony of these three officers joined with that of General Porter would seem to be sufficient. But before the advisory board, sixteen years afterward, some new dispatches of Porter were produced. General McDowell produced one which is marked as No. 38 P. The whole context of this dispatch shows that Porter was at the time of writing it without any information from Pope, and eagerly awaiting it. He pleads, "Please let me know your designs." After McDowell had presented it to the board and it had been read, Porter with a listless curiosity took it up, when his eye fell upon the date obscurely written in the corner "August 29, 6 p. m." This settles the matter. The 4.30 order was not received until after 6 p. m., August 29, 1862. It was received later, and, if later, it was received too late to make the attack if directed.

But had it been delivered earlier, as it ought to have been, Porter would not have made the attack. He could not make it. He could not attack upon the flank, much less upon the rear, of Jackson's force, as he was ordered to do. He knew that a great force had come to Porter's front of which the order showed his commanding general knew nothing. This new force of the enemy blocked his way, and he could attack the flank or the rear of Jackson only by annihilating the force of Longstreet. Longstreet had twenty-five thousand men in front of Porter; Jackson had twenty-three thousand in front, but to his right; and Porter had what McDowell had left him, nine thousand. Porter could attack and lay their bodies at the feet of Longstreet's guns. The gentleman from Indiana [Mr. BROWNE] thought he ought to have done so, as he thought that the charge at Balaklava was war and not a spectacle. Porter thought otherwise, and his opinion seems to have been approved by General Grant, General Schofield, General Terry, and General Getty. He must bear this difference of opinion between himself and the gentleman from Indiana in such company as this. [Laughter.]

It is charged that Porter did not know at that time that Longstreet's forces were before him. What evidence shows that he had this knowledge on the afternoon of the 29th of August, 1862? First, the whole tenor of his dispatches shows that he had watched the progress of the enemy's forces and had been constantly expecting Longstreet's appearance. On the 27th Porter says in a dispatch, No. 20, "Everything has moved up north," and says that he gets his information from an intercepted letter of Lee's. McDowell knew it, and said that Longstreet was coming through Thoroughfare Gap (volume 1, page 349), and McDowell says he told Porter all he knew. Again, in the dispatch that Porter sent at 6 o'clock, August 29, asking Pope for information, he says:

From the masses of dust on our right, and from reports of scouts, I think the enemy are moving largely that way.

Earlier in the day Porter had captured prisoners from Longstreet's army. At noon McDowell showed him Buford's dispatch, which said that a large force had passed Gainesville, only three miles off, before 9 o'clock that morning. (Volume 1, page 82.) At about that time the enemy fired musketry at McDowell and Porter while their forces were together, and during all that afternoon Marshall and Morell were flying over the country testing the enemy at every point, and reported in a dozen messages that they found him everywhere present in front and in strong force. (Dispatches 29 to 31, both inclusive, volume 1, pages 333 to 335, 380 to 382.) These were the means by which Porter gained his information and he testified that he had it before the court-martial in 1862:

To begin, the fundamental averment of the order upon which it all rests is en-

tirely untrue. That averment is that my line of march as pursued under the joint order above referred to brought me in on the enemy's right flank. The fact is that my line of march as so pursued brought me not in on the enemy's right flank, but it brought me directly upon the front of a separate force of the enemy from ten to fifteen thousand strong, of the presence of which thus directly in my front General Pope, when he wrote the order, was wholly ignorant.

Do gentlemen want better evidence than this? Here is Pope's announcement on the 27th that the enemy is coming. Here is McDowell's testimony that he knew on the morning of the 28th that the enemy was coming through the gap. Here are prisoners taken on the morning of the 29th, and here are Marshall and Morell in a dozen messages in the afternoon of August 29 confirming his knowledge. And here, as well as anywhere else, let me say that I do not find that the new testimony, whether obtained from loyal or Union sources introduces anything new. It only serves to confirm what Porter and his witnesses had testified to in the trial.

These were the offenses. What was the court-martial that passed the sentence? It was composed of nine soldiers, gathered hastily in this city out of the gloomy atmosphere of defeat. They sat within the roar of the enemy's artillery and their faces were black with the smoke of battle. They were honest and honorable men, but they were human, and when a stern Secretary of War who made and unmade generals at his will ordered them to vote and go, they voted and went. When they voted, they gave, just as you and I would have done, to their country the benefit of the doubt. They sat forty-five days; they gave the accused thirteen days out of them. They neglected to produce any of his witnesses for whom he asked, but Stanton's order was read in the morning and they closed the testimony that day and went.

The gentleman from Ohio [Mr. KEIFER] said this was a "most august tribunal." Has he forgotten the Long Parliament and its prompt obedience and adjournment at the command of Cromwell, compared with which this "august tribunal" was a slow coach?

They voted and went. The world will never know but that it was by a vote of five to four that Stanton got his will. I hope it was not so. For one judge left the bench and went to the witness-box to testify for conviction, and four other judges received promotion within two weeks of the time they rendered their judgment. I wish the world on this point might appropriate the exclusive information of the gentleman from Michigan [Mr. CUTCHEON]. He says "the nine able generals who tried him with all the essential facts before them said there could be but one verdict." This is the information that we want, the unanimity of the nine generals, but unfortunately it is confined to that gentleman, and history may not appropriate it. He has, too, exclusive information, for which Englishmen would pay a million of pounds. They would give that or more to make Admiral Byng a subordinate and the commander of a single ship. It would wipe out a bloody page in British history, and the stinging epigram of Voltaire, who thought that the English had to kill every now and then a brave admiral to encourage the rest. [Applause.] The gentleman from Michigan had, also, exclusive but this time inaccurate knowledge of the course of history. He says "impartial history will declare that there could be but one verdict," yet the report of the minority which he signed calls attention to the opinion of a writer which it calls "a careful military historian, the author of perhaps the best history of our civil war that has been written." The report says that "he was supplied with ample facilities

to inform himself and so situated that he can and does write without prejudice or passion. This historian, the Comte de Paris, writes: "

Impartial history should censure Lee's lieutenant rather than Pope's for his inaction during the 29th; and whether the latter did or did not neglect the orders of his chief, it must be acknowledged that Porter's mere presence in front of Longstreet condemned forces outnumbering his own to remain inactive which otherwise might, with great advantage to the confederate cause, have been employed to attack Porter or to re-enforce Jackson.

How happened my accurate friend from Michigan to make this great mistake? It came naturally from the unwillingness of his side to look at any new evidence. He read the first edition of this history, which censured Porter, and neglected to read the new edition, where the princely author, having read the new evidence, dared, like Grant and Schofield and Terry, to change his opinion in the presence of new and conclusive facts. And inasmuch as the ability, fidelity, and impartiality of the Comte de Paris have been so generously avouched by our opponents, let me read what was his final opinion:

His attack—

Speaking of that which the gentleman from Indiana [Mr. BROWNE] wished him to make on the night of August 29, so that the country might have seen another Balaklava—

His attack, therefore, could not have produced the results upon which the general-in-chief had counted. In spite of the impossibility of his executing literally Pope's order, and whatever may have been the orders given him by McDowell during the day, Porter might undoubtedly have pressed the enemy more closely. Perhaps he might even have obtained a partial success before Wilcox's arrival. But under no circumstances could this movement have had the slightest effect upon the result of the engagement which was now taking place on the right of the Federal Army, for Longstreet could have resisted Porter with forces superior to the latter without being obliged to detach a single man from that engagement. Therefore impartial history should censure Lee's lieutenant rather than Pope's for his inaction during the 29th, &c.

But it is scarcely fair to leave the gentleman from Michigan alone to bear the errors which the side he so ably but inaccurately defended have everywhere made. I have time now to allude to a misrepresentation, unintentionally made, of the opinions held with reference to the conduct of the trial by Reverdy Johnson. One gentleman assumed that this august tribunal, which closed its evidence upon the day that the Secretary of War ordered, which sent one of its judges to the witness-box and saw four others promoted within two weeks of the verdict, was all right, because Reverdy Johnson had said:

Whatever may be the result, neither General Porter nor his friends can have any ground of complaint against the court. I consider the trial to have been perfectly fair.

This would have been a great help to the character of this august tribunal had it been true; unfortunately it was a newspaper story; fortunately I have the newspaper in which it was published, and across its lying face are written these words: "False, absolutely false. R. J."

Here is the newspaper, and here is the indorsement, and here is the letter written by Reverdy Johnson, in which he says:

I have obtained a copy of the Chronicle, and inclose you the article on the reply. The fact it states as to what I said in the presence of high officials of the Government is entirely false.

The generals who sat on the court-martial voted and went back to the fight. They hoped they had done their duty, but feared. Their uneasiness increased when lawyers, soldiers, and States began to examine their report. They examined it sitting apart from the noise of battle and they weighed calmly the evidence. Lawyers like Daniel

Lord, Sidney Bartlett, E. R. Curtis, J. G. Abbott, William D. Shipman, and Charles O'Connor declared over their own signatures that the original verdict was against the original evidence. Said Daniel Lord:

At the time of General Porter's trial I read the proceedings with astonishment at the testimony received and acted on, and am convinced that the trial was substantially conducted on an order to convict.

Said Judge Curtis:

I think General Porter was improperly convicted on the evidence before the court which tried him, and he is at liberty to use this opinion when and where he chooses.

Said Bartlett:

You are entitled to my judgment in the matter, which is that the evidence fails to support the charges against you, and that acquittal instead of conviction should have been the result.

Said Abbott:

The finding of the court seems to me so unwarranted by the whole evidence that I should be glad to think it was the judgment of a tribunal utterly illegal and not recognized by the laws of the land.

Said Judge Shipman:

With all deference to the members of the court, I thought then, and still think, their conclusions unwarranted by the evidence.

Said Charles O'Connor:

I am convinced that a new trial ought to be had in the case of Fitz-John Porter. There is no adequate evidence of the misconduct alleged, and the record leaves it very doubtful whether any opinion was ever formed against him which can justly be regarded officially authoritative.

These lawyers, in writing, without pay, over their own signatures, thus declare that on the original evidence Porter's should have been acquitted, and asked that the President of the United States should open the case. The President who put the last signature to the verdict expressed to a governor of New Jersey his ardent wish that it might be opened.

Governor Newell writes to Governor Randolph:

I had several conversations with President Lincoln. The President was much interested, and said cheerfully that he would gladly grant a reopening if any new evidence exculpatory of General Porter could be adduced. He said that he had no prejudice, but had been obliged to form his opinion from Judge Holt's examination, as in his multitude of cares he had not been able to make a personal investigation.

The charge has been made that notwithstanding these sentiments President Lincoln refused an application for a review of the case. No application was ever made. A few months after the judgment of the court-martial Edward Everett, Robert C. Winthrop, Amos A. Lawrence, and others, of their own motion and without the knowledge of General Porter, prepared an eloquent memorial to the President, in which they asked him to reconsider the proceedings of the court-martial. The memorial got into the newspapers, as anything signed by such illustrious names naturally would, but was never presented. General Porter heard of it and sent his earnest request to Mr. Everett that no such action should be taken. He said wisely that it was premature. Another, who became President, and whose presence upon that court-martial gave its decision greater weight, on the 18th of January, 1875, moved in this very House that a board of examination might be appointed who should receive the new evidence which was offered. He

introduced this resolution unsolicited, and wrote to General Porter that he believed it would be adopted; and here is the resolution:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be the duty of the President of the United States to convene a board of officers of high rank in the Army, unconnected with the armies or transactions in question, to examine the evidence alleged to have been discovered by and to be in the possession of Fitz-John Porter, unattainable at the time of this trial, and report what, if any, bearing such evidence, if substantiated, would have in the findings and sentence of court-martial in his case.

And here is the letter, with that signature so familiar and so dear to many of us. I present it now because it has been made public before:

WASHINGTON, D. C., February 19, 1875.

DEAR SIR: Your two letters came duly to hand, together with the pamphlet. I owe you an apology for not answering you sooner.

I introduced the bill to which you refer, not because I was conscious of any intentional wrong done you by the court, for I have never concurred in the severe reflections which have from time to time appeared in the public press on the motives and conduct of that court; but I am willing that any new evidence you may have shall be presented to the Government in an official form, and reported to the President by a board of officers who were in no way connected with the trial or with the operations of the army to which the trial related.

I have spoken to several members of the Committee on Military Affairs, and understand them to be willing to report the bill to the House. They have not yet had an opportunity to do so, but I hope they will before the session closes.

I shall consider your pamphlet as confidential, unless you otherwise direct me.

Very respectfully, your obedient servant,

J. A. GARFIELD.

General FITZ-JOHN PORTER,
Morristown, N. J.

Gentlemen who have used their wit to belittle the dignity and methods of the advisory board and claim great friendship for General Garfield would employ their wit better in telling how it differs from the board proposed in this resolution by him. Garfield proposed that the President should appoint. Garfield proposed that the appointees should be officers of high rank in the Army. Garfield proposed that this board should examine the evidence alleged to have been discovered by and to be in possession of Fitz-John Porter, unattainable at the time of his trial, and report what, if any, bearing such evidence, if substantiated, would have in the findings and sentence of the court-martial in his case. How does the advisory board here proposed and described differ from the one whose report is before us? There has not been even an attempt to show the difference. One gentleman, when pressed, exclaimed, "Garfield meant to have no such board as this."

Two of the board were so prejudiced against the accused that they at first refused to serve. Did the gentlemen object because one of the judges had no prejudice? This resolution introduced by Garfield shows that he was willing to have the proceedings of the court-martial open and its findings reviewed by an advisory board. And unless our opponents can destroy the records of the Forty-third Congress they should cease their efforts to misrepresent his position. I draw my conclusions from this public act of General Garfield. As his friend, I can not produce his private letters to show how near under provocation he came to breaking the secrecy on which honor shut his lips, and if I did this dishonor to his memory I should want to find something stronger for my case than the Cox letter, where he says:

I have not yet made, in the light of the new testimony, a careful strategic study of the field and map as you have done.

Can there be a stronger comment on the impropriety of this practice than the effort to claim an opinion from General Garfield out of a letter

in which he admits that he had made no careful study of the subject? I, too, have letters, and they have allusions to this subject not unfavorable to the side I advocate. Here are two of them, but they are marked "personal;" and I will not read them to hurt the dead that I may help the living.

A third President listened, approved, and acted. He named a board of examination just like that suggested by Garfield. He put on it "officers of high rank in the Army, unconnected with the armies or transactions in question." He put on it Generals Schofield, Terry, and Getty, men whom the gallant Sherman declared to be "officers than whom three better do not exist in the Army." They made, as Garfield suggested, "an examination of the evidence alleged to have been discovered by and to be in the possession of Fitz-John Porter, unattainable at the time of this trial," and they reported that the bearing of such evidence should reverse the findings and sentence of the court-martial in his case. They had new evidence from the confederates against whom General Porter was ordered to march. They had new evidence in the dispatches of General Porter which had been concealed or withheld. They had accurate maps of the ground and the disposition of the forces. On these they report and acquit Porter of all guilt. Gentlemen hesitate because they are unwilling that the proceedings of this court-martial, this august tribunal, should be reviewed. They claim that the review of a court-martial is unconstitutional. I do not agree with this view. They speak as if court-martials were the Supreme Court, and established by the Constitution. They were, however, created by the Legislature, and the power that created can review, correct, or destroy. But the action of the House to-day is not a review of the court-martial or its proceedings. We are hearing no appeal from that court. We are exercising a frequent and undisputed right. We are putting in to the Army of the United States an illustrious general whose services there will be valuable to the Commonwealth. If our action seems to reflect upon the view of General Porter's merits which the court-martial expressed, that is an unpleasant discrepancy between that board and this House. Let the verdict stand and go into history. But outside of the courts and irrespective of that court's decision the world now knows and admits that General Porter was a good soldier and suffered a wrong. And Congress, recognizing the inexorable logic of facts, accepts the conclusion and completes a pardon which the Executive began. [Applause.] It were as well to claim that the pardon of the President overruled the court-martial as that our action in restoring General Porter has overruled it.

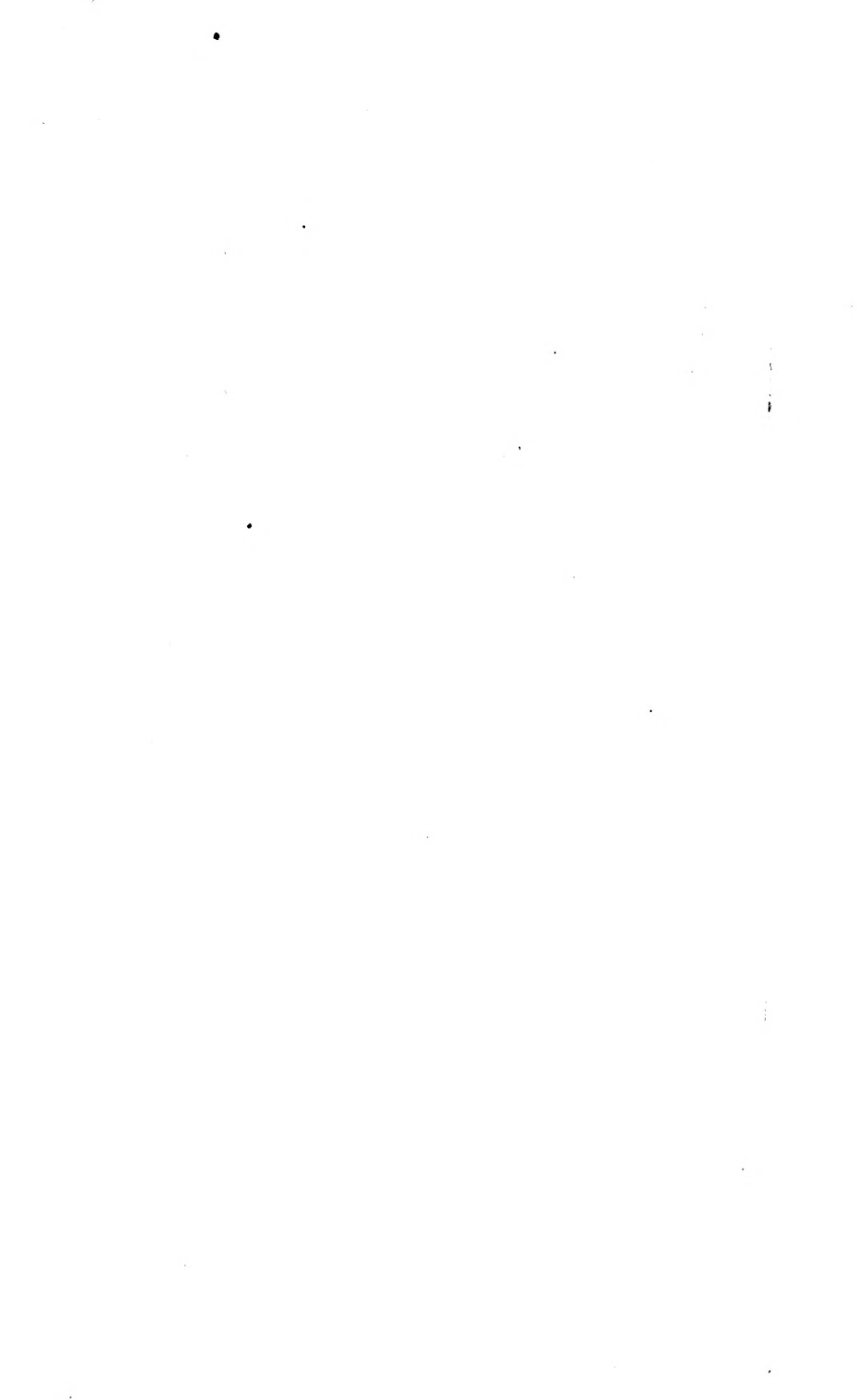
The advisory board did not sit to review the trial of the court-martial. They sat to review a case in which the parties were the same, but the evidence was very different. Their report contributed to that general conviction and that popular knowledge on which with the report we are acting. On the facts derived from this report and elsewhere we are asked to restore General Porter to his position in the Army. He does not ask money for services he was always ready and willing to perform. He does not ask compensation for suffering and loss almost unparalleled in history. He only asks that the ranks of the Army from which he was driven should be open to receive, and that the sword which was taken from him should be placed at his side. Shall this scanty justice be refused him? While I make the appeal I pause to admit his faults—serious faults, but excusable; faults, but not crimes. He was not a traitor. Punish him if, in his anxiety to furnish the information for which Burn-

side, McClellan, and Lincoln constantly pressed him, he spoke with a frankness and freedom which was characteristic of his nature but contrary to the military discipline when he spoke of one who was his superior in the field. Remember that dispatches were coming from Lincoln, from McClellan, from Burnside, saying that their only knowledge of the momentous events transpiring in the front must come through him, and that, in grateful obedience to three men whom he especially honored and trusted, he wrote just what he thought; and remember, too, that history has stamped just what he thought and wrote as the truth. For this breach of military discipline, however, let him be punished. He had no faith in his commanding officer, and he improperly communicated his suspicions and dislikes to the President of the United States and to his commander-in-chief. This was an offense, and so was Washington's, when on the hot Sunday at Monmouth he cursed General Lee loudly for his cowardice or folly. But this offense is slight and has been already punished. Don't think of this little fault. Think of his great virtues. Remember how he fought on the 30th! That order came in time and from a superior who at last had learned his surroundings. And with Porter at their head the Fifth Army Corps charged into the gates of hell, and into the jaws of death. This was magnificent, and this was also war—war at its sternest. They went in six thousand—they came out leaving twenty-two hundred on the field. It was a loss to Porter of twenty-two hundred friends, for the Fifth Army Corps was, and is to-day, and while one veteran survives will be, the faithful, unflinching, loyal friend of its gallant commander. Give him back to them. [Applause.]

Mr. Chairman, the chief of the rebellion walked down the steps of this Capitol threatening to return and destroy it. He attempted its destruction and failed. Yet Jefferson Davis walks in freedom. Men who penned our soldiers in Andersonville and Libby still live.

Officers trained at West Point, whose treason is not investigated, for they practiced it from the Mississippi to the Potomac, sit in this House. Shall Porter, innocent in heart if erring in act, alone be punished? Must he be a sacrifice for a nation?

The hero of Mexico and Malvern and Manassas asks only for justice; if you refuse him justice, I plead, against his wishes, for mercy. Take this innocent man from the side of Judas and Arnold and place him by the side of those who honor him—by the side of Getty and Sykes and Terry and Schofield and Grant. [Long-continued applause.]



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